

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Rachelle Leah Payonk,

Bky. No. 19-60247

Debtor.

Douglas Eric Towle,

Plaintiff,

vs.

Adv. Proc. No. 19-06014

Rachelle Leah Payonk,

Defendant.

ANSWER

Comes now Defendant Rachelle Leah Payonk, as and for her Answer to the plaintiff's Complaint, states and alleges as follows:

ANSWER

1. Except as hereinafter admitted, qualified, or otherwise answered, defendant denies each and every allegation and thing in plaintiff's Complaint.
2. Defendant admits that she used plaintiff's credit card with his permission.
3. Defendant admits she did not pay plaintiff for the purchases she made with his credit card.
4. Defendant denies the allegation that she engaged in any fraud with respect to her use of plaintiff's credit card.

AFFIRMATIVE DEFENSES

Defendant asserts the following affirmative defenses in order to preserve them pending further discovery:

1. The Complaint fails to state a claim upon which relief can be granted.
2. The plaintiff's claims are barred, in whole in in part, by the doctrine of unclean hands, laches, waiver and estoppel.
3. The plaintiff's damages, if any, are a result of plaintiff's own actions or inactions, negligence, or the actions or negligence of third parties over whom the defendant had no control.
4. As a separate and alternative defense to the Complaint, the defendant alleges that the claims contained in the Complaint may be barred by any or all of the affirmative defenses contemplated by Rule 8 of the Federal Rules of Civil Procedure. To the extent plaintiff's claims may be barred by one or more of said affirmative defenses not specifically set forth above and cannot be determined until the defendant has had the opportunity to complete discovery, the defendant therefore incorporates all such affirmative defenses as if fully set forth herein.

PRAYER FOR RELIEF

WHEREFORE, defendant requests an order of the Court as follows:

1. Dismissing plaintiff's Complaint with prejudice and on the merits;
2. Awarding defendant her costs and disbursements herein; and
3. For such other and further relief as the Court may deem just and equitable under the circumstances.

VOLUNTEER LAWYERS NETWORK
DAVE BURNS LAW OFFICE, LLC

Dated: September 12, 2019

/s/ David M. Burns
David M. Burns, #337869

1025 Grain Exchange South
400 South Fourth Street
Minneapolis, MN 55415
Phone: 612-677-8351
Fax: 866-223-3806
Email: dave@daveburnslaw.com

Attorney for Defendant

DECLARATION OF SERVICE

I, David M. Burns, attorney for Defendant Rachelle Leah Payonk, declares that on September 12, 2019, I served an ANSWER by electronic mail via the court's CM/ECF server. Additionally, on September 12, 2019 said ANSWER was served upon:

Douglas Eric Towle
319 25th Avenue North
St. Cloud, MN 56303

by mailing a copy thereof, enclosed in an envelope, first class postage prepaid, and by depositing the same in the United States Mail at Minneapolis, Minnesota, directed to each party at the address indicated above.

VERIFICATION

I hereby declare under penalty of perjury that I have read the foregoing Declaration of Service by CM/ECF and U.S. Mail and that the facts stated therein are true and correct.

**VOLUNTEER LAWYERS NETWORK
DAVE BURNS LAW OFFICE, LLC**

Dated: September 12, 2019

/s/ David M. Burns
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Attorney for Defendant